



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

#### RIN 0648-BL08

### Fisheries of the Exclusive Economic Zone Off Alaska; Amendment 122 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area; Pacific Cod Trawl Cooperative Program

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability of fishery management plan amendment; request for comments.

**SUMMARY:** The North Pacific Fishery Management Council (Council) submitted Amendment 122 to the Fishery Management Plan (FMP) for groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI) to the Secretary of Commerce for review. If approved, Amendment 122 would implement the Pacific cod Trawl Cooperative (PCTC) Program, a limited access privilege program. Amendment 122 is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Amendment 122, and the BSAI FMP.

**DATES:** Comments must be received no later than *[INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

**ADDRESSES:** You may submit comments, identified by NOAA-NMFS-2022-0072, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-

2022-0072 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to the Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (*e.g.*, name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 122 to the BSAI FMP, the Environmental Assessment/Regulatory Impact Review prepared for this action (the Analysis), and the Finding of No Significant Impact prepared for this action may be obtained from [www.regulations.gov](http://www.regulations.gov) and the NMFS Alaska Region website at <https://www.fisheries.noaa.gov/region/alaska>.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Warpinski, (907) 586-7228.

**SUPPLEMENTARY INFORMATION:**

The Magnuson-Stevens Act requires that each regional fishery management council submit any FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public

review and comment. This notice announces that proposed Amendment 122 to the BSAI FMP is available for public review and comment.

The Council prepared, and the Secretary approved, the BSAI FMP under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). The BSAI FMP is implemented by regulations governing U.S. fisheries at 50 CFR parts 600 and 679. The Council is authorized to prepare and recommend an FMP amendment for the conservation and management of a fishery covered under the FMP.

Amendment 122 would create a limited access privilege program—the PCTC Program—in the BSAI Pacific cod trawl fishery, allocating harvest quota to participants based on their history in the fishery. Amendment 122 would allocate quota share (QS) to groundfish License Limitation Program (LLP) license holders based on the harvest of BSAI Pacific cod during the qualifying years of 2009 through 2019. Amendment 122 would also allocate QS to a processor permit holder based on processing history during those qualifying years. Under this program, QS holders would be required to join a PCTC Program cooperative annually. Cooperatives would be allocated an exclusive harvest privilege in the form of cooperative quota (CQ), equal to the aggregate QS of all cooperative members. The Council’s intent in recommending Amendment 122 is to improve the prosecution of the fishery by promoting safety and stability in the harvesting and processing sectors, increasing the value of the fishery, minimizing bycatch to the extent practicable, providing for the sustained participation of fishery dependent communities, and ensuring the sustainability and viability of the Pacific cod resource in the BSAI.

Amendment 122 would add section 3.7.6 of the FMP to: (1) Authorize the PCTC Program harvesters and processors to form cooperatives to harvest their QS; (2) Allocate QS to harvesters based on legal landings of targeted BSAI Pacific cod by trawl catcher vessels (CVs) during the 2009 to 2019 qualifying years; (3) Allocate QS to Bering Sea

processors based on deliveries of legal landings of targeted BSAI Pacific cod by trawl CVs during the 2009 to 2019 qualifying years; (4) Establish annual halibut and crab prohibited species catch (PSC) limits specific to the BSAI Pacific cod trawl CV sector during the annual harvest specifications process; (5) Require cooperatives to reserve 12 percent of A season CQ as a set-aside for delivery to an Aleutian Islands shoreplant if the community of Adak or Atka file a notice of intent to process Pacific cod that year; (6) Establish an aggregate Gulf of Alaska (GOA) groundfish sideboard and halibut PSC limit for all American Fisheries Act (AFA) CVs that are not currently exempt from GOA sideboards (except when participating in the Central GOA Rockfish Program); (7) Restrict PCTC Program harvesters that are exempt from GOA sideboards from leasing CQ derived from their QS; and (8) Establish limitations on transferability of QS, requirements for cooperative reporting to the Council, and ownership and use caps.

Amendment 122 would remove section 3.6.5 of the FMP because Amendment 113 and its implementing regulations were vacated by the U.S. District Court for the District of Columbia (Court) on March 21, 2019. BSAI Amendment 113 required harvesters to deliver a certain amount of Pacific cod to AI shoreside processors, as recommended by the Council and implemented by NMFS at the start of the 2017 fishing year (81 FR 84434, November 23, 2016). This proposed amendment would remove Amendment 113 and implement an alternative delivery set-aside under which PCTC Program cooperatives would reserve CQ for delivery to an Aleutian Island shoreplant under certain conditions.

NMFS is soliciting public comments on proposed Amendment 122 through the end of the comment period (see **DATES**). NMFS intends to publish in the **Federal Register** and seek public comment on a proposed rule that would implement Amendment 122 following NMFS's evaluation of the proposed rule under the Magnuson-Stevens Act.

Respondents do not need to submit the same comments on Amendment 122 and the proposed rule. All relevant written comments received by the end of the applicable comment period, whether specifically directed to the FMP amendment or the proposed rule, will be considered by NMFS in the approval/disapproval decision for Amendment 122 and addressed in the response to comments in the final rule. Comments received after that date may not be considered in the approval/disapproval decision on Amendment 122. To be certain of consideration, comments must be received, not just postmarked or otherwise transmitted, by the last day of the comment period (see **DATES**).

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: December 27, 2022.

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Ngagne Jafnar Gueye,  
Acting Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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